



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

Eric S. Brown, Esquire  
Patton Boggs LLP  
2550 M Street, N.W.  
Washington, DC 20037

SEP 29 2006

Re: MUR 5740  
Nethercutt for Senate and Catherine Gernes,  
in her official capacity as treasurer

Dear Mr. Brown:

On September 12, 2006, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(b), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Mizuno".

Beth Mizuno  
Attorney

Enclosure  
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Nethercutt for Senate and  
Catherine Gernes, in her official  
capacity as treasurer

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MUR 5740

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Nethercutt for Senate and Catherine Gernes, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. § 434(b)(4).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Nethercutt for Senate ("the Committee") is a political committee within the meaning of 2 U.S.C. § 431(4)(A).
2. Catherine Gernes is the treasurer of Nethercutt for Senate.
3. The treasurer of a political committee must file reports of all receipts and disbursements in accordance with the Federal Election Campaign Act of

1971, as amended ("the Act"). 2 U.S.C. § 434(a)(1). Each report for the reporting period shall disclose, *inter alia*, the total amount of disbursements and include an itemization of all disbursements for expenditures made to meet candidate or committee operating expenses 2 U.S.C. § 434(b)(4)

4. On July 15, 2004, Respondents timely filed an original July Quarterly Report disclosing total disbursements of \$1,021,914.
5. On September 2, 2004, Respondents voluntarily filed an Amended July Quarterly Report disclosing total disbursements of \$1,390,837. Total disbursements for operating expenditures increased by \$368,923, the bulk of which consisted of one payment to Mentzer Media Services in the amount of \$354,100.
6. In response to a Request for Additional Information from the Reports Analysis Division, Respondents explained: "The Committee realized that, due to a data entry error, it neglected to include various payments to Mentzer Media. Once this omission was discovered, an amendment to the July Quarterly Report was filed to fully disclose all disbursements made during the period 4/1/04-6/30/04."
7. Respondents contend that its omission of these amounts was due to administrative oversight, and evidences no intent to violate any provision of the Act. Respondents further contend that the Committee, upon discovery of the error, quickly amended its report to fully and accurately disclose the transactions at issue, as required by law.

V. Respondents failed to disclose a total of \$368,923 in operating expenditures in the Committee's original July Quarterly Report, filed on July 15, 2004, in violation of 2 U.S.C. § 434(b)(4). Respondents will cease and desist from violating 2 U.S.C. § 434(b)(4).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Thirty Thousand Dollars (\$30,000.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

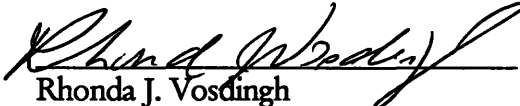
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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

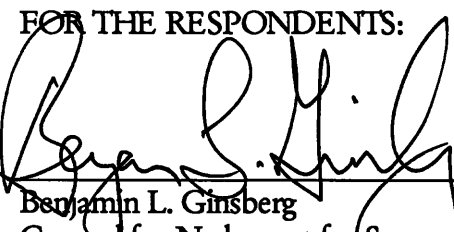
Lawrence H. Norton  
General Counsel

BY:

  
Rhonda J. Vostding  
Associate General Counsel  
for Enforcement

9/18/06  
Date

FOR THE RESPONDENTS:

  
Benjamin L. Ginsberg  
Counsel for Nethercutt for Senate and  
Catherine Gernes, in her official capacity as treasurer

July 6, 2006  
Date

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